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09/529,638	06/05/2000	OLLE CARLBARK	000500-252	9552
7590	12/05/2006		EXAMINER	
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

MAILED

Application Number: 09/529,638
Filing Date: June 05, 2000
Appellant(s): CARLBARK ET AL.

DEC 05 2006
Group 3700

William C. Rowland
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 31 January 2005 appealing from the Office action mailed 2 November 2004.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

H1440	NEW et al.	05-1995
5,706,524	HERRIN et al.	01-1998

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 21-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over New et al. (H1440) in view of Herrin et al. (5,706,524).

New discloses all aspects of the claimed invention with the exception of stiffening elements. New discloses a garment, as shown in figure 6, comprising an absorbent part 14 and two separate waist belts 12. The waist belts 12 extend in the longitudinal direction, have one end permanently fastened to the absorbent part, and the opposite ends of the belts are adapted to be fastened together around the waist of a wearer.

Herrin discloses a garment having waist belts 30 that have a stiffening material 33, as shown in figure 4, that varies in the cross-direction of the belts 30. The stiffening material 33 is extensible in the longitudinal direction. The belts 30 have a piece at the end that is free of stiffening material 33, as shown in figure 4. The belts 30 of Herrin provide good stretch and recovery characteristics, and are easy to attach, as disclosed in column 2, lines 50-52.

It would therefore be obvious to one of ordinary skill in the art at the time of invention to construct the garment of New with the waist belts of Herrin, to provide good stretch and recovery characteristics, and easy attachment.

With respect to claim 22, Herrin discloses the extension coincides with essentially the length of the belts 30.

With respect to claim 23, Herrin discloses the belts 30 fasten with releasable fasteners 36, 37. New discloses the belts 12 fasten with releasable fasteners 18.

With respect to claim 24, New discloses the absorbent part 14 comprises elastic 36.

With respect to claim 25, Herrin discloses both belts 30 have a piece at the end that is free of stiffening material 33, as shown in figures 1 and 4.

(10) Response to Argument

In response to the Appellant's argument that the belt of New has an acruate shape which would be destroyed by the incorporations of elastics, as taught by Herrin, it is noted that New discloses an embodiment wherein the belt is rectangular and linear, as shown in Figure 9A. The belt disclosed by Herrin is also rectangular and linear, as shown in Figure 3. Therefore, modification of the belt of New in view of the teachings of Herrin would not destroy the shape and function of the belt of New, since both New and Herrin disclose rectangular, linear belts.

In response to the Appellant's argument that Herrin fails to disclose belt portions that are designed to attach to each other around the waist of the wearer, it is noted that Herrin is not relied upon for the attachment means of the belt, but rather the inclusion of elastic elements that add stiffness and elasticity to the belt.

In response to the Appellant's argument that there would have been no motivation to include the elastic elements of Herrin in the belt of New, it is noted that one of ordinary skill in the art at the time of invention would have been motivated to include the elastic elements of Herrin in the belt of New to provide the belt with improved stretch and recovery characteristics, as taught by Herrin in column 2, lines 50-52, thus providing the belt of New with a more secure fit.

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(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

C. Lynne Anderson



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